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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,674	02/21/2001	Sergey N. Razumov	59036-014	6036
7590 09/29/2005 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER FADOK, MARK A	
			ART UNIT 3625	PAPER NUMBER
DATE MAILED: 09/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/788,674

Applicant(s)

RAZUMOV, SERGEY N.

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-23, 29-32 and 35-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-28, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/14/2001</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Election***

The examiner is in receipt of applicant's response to Restriction requirement mailed 7/1/2005, which was received 7/15/2005. Acknowledgement is made to the election of Group IIC comprising claims 24-28,33 and 34 with traverse. Applicant argues that since the examiner did present reasons for the species restriction the restriction is believed to be defective. The examiner notes that there is no requirement for the examiner to present reasoning for the species restriction and should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. The examiner points out that the applicant did not provide a proper traverse. Therefore the examiner will prosecute the elected claims of 24-28,33 and 34.

### **Examiner's Note**

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 24-26,33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain (5,158,155) in view of Official Notice.**

**In regards to claim 24,** Domain discloses a system for selling goods having multiple purchase obtaining facilities for enabling customers to obtain pre-ordered purchases, at least one of the purchase obtaining facilities (col 2, lines 32-40) comprises:

multiple purchase pick-up points (col 2, lines 32-40), and

Domain teaches assigning a specific purchase pick-up point to a customer when the customer is identified (col 2, lines 40-45), but does not specifically mention that the assignment is done automatically. It would have been obvious to one having ordinary skill in the art at the time the invention was made to automatically assign a specific

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purchase pick-up point to a customer when the customer is identified, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art, In re Venner, 120 USPQ 192.

**In regards to claim 25**, Domain teaches wherein the customer is provided with information identifying the specific purchase pick-up point assigned to the customer (col 2, lines 40-45).

**In regards to claim 26**, Domain teaches wherein a request for collecting a purchase for the customer is automatically produced simultaneously with assigning the purchase pick-up point for that customer (col 8, lines 13-23).

**In regards to claims 33 and 34**, Domain teaches a pickup point arrangement, but does not specifically mention that the pick-up arrangement is movable. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to make the pick-up arrangement portable, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art, In re Lindberg, 93 USPQ 23 (CCPA 1952).

**Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domain in view of Joseph (5,635,906).**

In regards to claims 27 and 28, Domain teaches picking up orders that are assembled by a third party, but does not specifically mention that the old and well known process of inspecting the package to assure that all the items have been correctly packaged for pick-up is present. Joseph teaches using a weight system to assure that all the products have been provided to the customer. It would have been obvious to include in Domain the use of the weight system as taught by Joseph, because this is a quick and efficient method to assure that all the ordered products have been included in the package for pick-up, thus quickly moving the customer from the lane so that another customer can use it for pick-up.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(571) 272-7159**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(571) 273-8300** [Official communications; including

After Final communications labeled

"Box AF"]

**(571) 273-6755** [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]



Mark Fadok

Primary Examiner